

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EDWARD MILLER,	:	CIVIL ACTION NO. 1:12-CV-00520
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
EUGENE BERDANIER, et al.,	:	
	:	
Defendants	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Plaintiff Edward Miller, an inmate most recently incarcerated at the State Correctional Institution in Pittsburgh, Pennsylvania (“SCI-Pittsburgh”), commenced this civil action with a complaint pursuant to the provisions of 42 U.S.C. § 1983 filed on March 21, 2012, as amended January 24, 2013. (Doc. 56.) Named as defendants are prison officials and medical providers from his two former places of confinement, Schuylkill County Prison and the State Correctional Institution in Camp Hill, Pennsylvania (“SCI-Camp Hill”). In his amended complaint, plaintiff claims that defendants violated his constitutional rights by delaying his medical treatment for lung cancer.

Presently pending before the court are three motions to dismiss the amended complaint filed separately by all three defendants. (Docs. 62, 65 & 78.) Also pending is a motion for summary judgment filed by plaintiff. (Doc. 90.)

The court has recently been advised by officials at SCI-Pittsburgh of the death of plaintiff Edward Miller on December 23, 2013. However, this case cannot

be terminated as to plaintiff Miller, except upon compliance with Rule 25 of the Federal Rules of Civil Procedure. That rule states, in part,

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

FED. R. CIV. P. 25(a)(1).

ACCORDINGLY, it is hereby ORDERED that defendants shall file a statement of suggestion of death in compliance with Rule 25 of the Federal Rules of Civil Procedure within ten (10) days of the date of this order.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania

Dated: January 6, 2014